



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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### **22 VAC 40-740 –Adult Protective Services State Board of Social Services April 26, 2005**

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The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

### **Summary of the Proposed Regulation**

The State Board of Social Services proposes to expand the scope of mandated reporters to include health professions regulated by the Department of Health Professions, emergency medical services personnel, and guardians. These changes would allow the agency's existing regulation to comply with changes to the Code of Virginia effective July 1, 2004 (as part of the Adult Protective Services Act). Also, pursuant to this legislation<sup>1</sup>, the State Board of Social Services proposes to authorize the Commissioner of Social Services or his designee to assess civil penalties for non-reporting by a mandated reporter of suspected abuse, neglect, or exploitation of vulnerable adults. Finally, the proposed regulations include numerous clarifications.

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<sup>1</sup> Senate Bill 318 and House Bill 952.

## Estimated Economic Impact

These regulations contain standards and procedures for the protection of elderly and incapacitated adults. More specifically, the rules establish procedures for reporting and investigating suspected abuse, neglect, and exploitation; for providing protective services; and for intervening in emergencies. In 2004, the Department of Social Services (the Department) received 11,821 reports of adult abuse, neglect, and/or exploitation. Of these reports, 7,152 or 61 percent were substantiated. However, most elderly abuse and neglect cases are not reported. According to a national study, the number of reported cases represents only 16 percent of the abuse cases that actually occur.

One of the proposed changes will expand the scope of mandated reporters to include certified emergency personnel, guardians, and conservators, as well as persons licensed, certified, or registered by health regulatory boards, including dentists, pharmacists, and funeral directors. According to Virginia Employment Commission data, there currently are 1.1 million mandated reporters in Virginia, representing approximately 33 percent of the workforce. The proposed changes will require an additional 197,328 individuals to report suspected adult abuse and neglect, increasing the percentage of the workforce required to report to about 39 percent.

An increase in the number of people who are required to report adult abuse and neglect is likely to increase the number of reports the Department receives. More reports would help the Department discover more cases of substantiated adult abuse and neglect cases, especially given the significant amount of underreporting in this area. Thus, the main objective of this proposed change is to discover more cases of adult abuse and neglect and provide appropriate protection, services, or intervention, as needed. The Department estimates an increase of 10 percent or 1,200 reports received annually. The provision of these services should increase the health, safety, and well being of Virginia's vulnerable elderly population and adults with disabilities. On the other hand, discovery of more cases is expected to increase state expenditures associated with providing adult protective services. In fiscal year 2003, the total statewide funding for adult protective services was about \$1 million. Thus, even though a precise fiscal estimate is not available, a 10 percent increase in the number of reports could increase the expenditures by approximately \$100,000. The associated costs of this change on mandated reporters should be minimal as mandated reporters can easily call a toll-free number to report suspected abuse,

neglect, and exploitation. In estimates prepared for the Adult Protective Services Act, it was determined that the legislative changes could increase caseloads by four to five adults per local agency.

Another proposed change, pursuant to legislation passed in 2004, will authorize the Commissioner of Social Services or his designee to assess civil penalties for non-reporting of suspected abuse, neglect, or exploitation of vulnerable adults by a mandated reporter (except in the case of law enforcement, which would continue to fall under the purview of the courts). In the past, only the courts could impose penalties. Guidelines require directors of local departments of social services to recommend incidents of non-reporting to the Commissioner for consideration of the imposition of a fine. With this change, the Commissioner or his designee may impose a penalty up to \$500 for the first offense. For the second and subsequent offenses, the penalty may be more than \$100 and less than \$1,000. These fines are the same as have been in statute for several years.

The possibility of facing civil penalties assessed by the Commissioner or his designee, coupled with the strict enforcement of this authority, should strengthen the incentives to report such cases. Similar to the previous change, more reports should help the Department uncover more abuse and neglect cases and improve the health, safety, and well being of Virginia's elder population and persons with disabilities. The Commonwealth will also enhance its revenues by the amount of civil penalties collected. However, there is no reliable estimate of the increase in magnitude of such collections, though they are expected to be minimal. On the other hand, the costs associated with providing protective services should increase with the number of substantiated cases of abuse, neglect, and exploitation. Also, imposition of penalties will likely necessitate some administrative costs on the Department. These costs may be related to verification of non-reporting, notification to the mandated reporter, and referral of the case to a court due to failure to report by a law-enforcement officer. Finally, if a mandated reporter contests the civil penalty in accordance with the Administrative Process Act, additional costs associated with the review of the appeal may be imposed on the Department.

The rest of the proposed changes are clarifications of the current Code language or policy and should not introduce any new significant costs or benefits other than removing ambiguities, thereby preventing noncompliance with the existing requirements, which may be costly.

## **Businesses and Entities Affected**

The proposed regulations will increase the number of mandated reporters by an additional 197,328 individuals. More stringent reporting requirements and the possibility of facing civil penalties are expected to improve protection afforded to Virginia's elderly population and persons with disabilities. In 2000, the number of people who were 60 or older in Virginia was about 1.09 million. In 1995, approximately 300,000 elderly persons reported having a health condition or impairment that limited their daily activities.

## **Localities Particularly Affected**

The proposed regulations apply throughout the Commonwealth.

## **Projected Impact on Employment**

The proposed regulations are expected to increase the number of adult abuse and neglect cases the Department discovers. This should increase not only the demand for labor by the local departments of social services to investigate additional cases, but also the demand for labor associated with providing these services. Thus, a positive impact on labor demand is expected.

## **Effects on the Use and Value of Private Property**

The proposed regulations are not expected to have a direct impact on the value of real property. However, the asset value of private businesses being mandated reporters for adult protective services, and providing services for those vulnerable adults who need such services such as long- term care facilities, may increase as a result of the increase in demand for their services.